

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

TURNER CONSTRUCTION COMPANY,

Plaintiff,

**CIVIL ACTION NO: 1:15-CV-00083
(Hon. Irene M. Keeley)**

v.

**AMERICAN SAFETY CASUALTY
INSURANCE COMPANY,**

Defendant.

JOINT PLAN FOR EARLY DISCOVERY AND MEDIATION

Plaintiff Turner Construction Company (“Turner”), Defendant American Safety Casualty Insurance Company (“ASCIC”), and Proposed Intervenor United States for the use and benefit of Designer’s Specialty Cabinet Co. d/b/a Designer’s Specialty Millwork (“DSM”) (collectively, the “Parties”), by and through undersigned counsel, submit this Joint Plan for Early Discovery and Mediation as directed by the Court by Order (Document No. 45) dated November 17, 2015.

1. Early Discovery

a. The Parties have timely exchanged their Rule 26 Disclosures. In addition, the Parties agree to conduct limited discovery (“Early Discovery”) to prepare for early mediation. DSM served a First Request to Produce and Interrogatories on November 23, 2015. These will be considered included in the Early Discovery and Turner has agreed to deliver its responses no later than December 16, 2015.

b. The Early Discovery will involve only written discovery in the form of interrogatories (limited to 25 in number) and requests for production of documents (collectively, the “Early Discovery Requests”), which shall be served no later than December 18, 2015, with responses due to Early Discovery Requests other than those

referenced in paragraph a. above, in accordance with the Federal Rules of Civil Procedure.

c. Responses to the Early Discovery Requests, including the production of requested documents, will be exchanged in electronic format.

d. The Parties agree to work in good faith to resolve any discovery disputes in an effort to avoid having to involve the Court; however, in candor to the Court, admit that there has been some disagreement concerning the production of records between ASCIC and DSM on the one hand, and Turner on the other. Therefore, in an abundance of caution, the Parties respectfully request the Court provide a date and time for a telephonic hearing in early January 2016 and the Parties propose to advise the Court five (5) business days in advance as to whether the time is, in fact, required and intervention needed, and provide a detail of the discovery subject to disagreement in the manner prescribed by the local rules.

e. The Parties agree that the goal of the Early Discovery is to provide information that is required in order to prepare for early mediation, and the Early Discovery will be tailored to serve its purpose.

f. Other than the Early Discovery, the Parties will not engage in any other discovery until after mediation.

g. In regard to the Early Discovery as set forth above, the Parties agree to serve written responses to the requests stating (a) any categories and/or records requested which do not exist and (b) categories and/or records that do exist and are being produced.

2. Early Mediation

a. The Parties agree to conduct early mediation ("Early Mediation").

b. The Parties have agreed to utilize **David G. Lane, Lane Law Services**, 1420 Spring Hill Road, Suite 600, Mc Lean, VA 22102-3030 as mediator. The Parties are finalizing a date for mediation, and have discussed conducting mediation on March 8 and/or 9, 2016, at Mr. Lane's office. The Parties respectfully seek the Court's permission upon approval of this Joint Plan, to save expense by avoiding the requirement of attendance by local counsel for the Parties at mediation.

c. The parties agree to provide a copy of this Joint Plan to the mediator upon the Court's approval of it.

d. The Parties recognize that amendment of the proposed Intervenor Complaint may be forthcoming based on facts and information in Rule 26 disclosures and other discovery in the event mediation is unsuccessful and Turner agrees it will not contend unreasonable delay based on the Parties having stipulated to conducting Early Discovery and Early Mediation as set forth in this Joint Plan.

3. Post-Mediation Activities

a. By March 23, 2016, the mediator shall report to the Court on the outcome of the mediation.

b. If the mediation is unsuccessful, the Parties shall submit to the Court a proposed schedule for the litigation within 7 days of impasse of the mediation and the Parties propose that the Court will set a Status Conference.

DATED: December 1, 2015.

Respectfully submitted,

/s/ Bryant J. Spann

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